

**KARB**  
**K.S.A. 2000 Supp 2-3710 et seq**

**2-3701**

**Chapter 2.--AGRICULTURE**

**Article 37.--ENVIRONMENTALREMEDICATION**

**2-3701. Short title.** K.S.A. 2-3701 through 2-3714, and amendments thereto, may be cited as the agricultural and specialty chemical remediation act.

**History:** L. 2000, ch. 82, § 1; July 1.

**2-3702**

**Chapter 2.--AGRICULTURE**

**Article 37.--ENVIRONMENTALREMEDICATION**

**2-3702. Definitions.** As used in K.S.A. 2-3701 through 2-3714, and amendments thereto:

(a) "Agricultural or specialty chemical" means any pesticide, fertilizer, plant amendment or soil amendment but does not include nitrate and related nitrogen from a natural source.

(b) "Board" means the Kansas agricultural remediation board created by K.S.A. 2-3709, and amendments thereto.

(c) "Corrective action" means action in response to release of an agricultural or specialty chemical that poses a threat to human health or the environment.

(d) "Eligible corrective action costs" means reasonable and necessary costs of corrective action, as determined in accordance with rules and regulations adopted by the board.

(e) "Eligible lending institution" means:

(1) A bank, as defined in K.S.A. 75-4201, and amendments thereto, that agrees to participate in the remediation linked deposit program and is eligible to be a depository of state funds; or

(2) an institution of the farm credit system organized under the federal farm credit act of 1971 (12 U.S.C. 2001), as amended, that agrees to participate in the remediation linked deposit program and provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(f) "Eligible person" means:

(1) A responsible party or an owner of real property, but does not include the state, any state agency, any political subdivision of the state, the federal government or any agency of the federal government; or

(2) a person who: (A) Is involved in a transaction relating to real property; (B) is not a responsible party or owner of the real property; and (C) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department of health and environment.

(g) "Fund" means the Kansas agricultural remediation fund established by K.S.A. 2-3711, and amendments thereto.

(h) "Linked deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated with an eligible lending institution for the purpose of the remediation linked deposit loan program.

(i) "Release" means any spill, leak, emission, discharge, escape or disposal of an agricultural or specialty chemical into the soils or waters of the state.

(j) "Remediation linked deposit loan package" means the forms provided by the state treasurer for the purpose of applying for a remediation linked deposit.

(k) "Remediation linked deposit loan program" means the program provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

(l) "Remediation reimbursement program" means the program provided for by K.S.A. 2-3709 through 2-3713, and amendments thereto.

(m) "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, within a one-half mile radius of a release.

**History:** L. 2000, ch. 82, § 2; July 1.

## **2-3703**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDATION**

**2-3703. Purpose; rules and regulations; annual reports.** (a) There is hereby established the remediation linked deposit loan program, which shall be administered by the state treasurer. The program shall be for the purpose of providing loans to eligible persons to pay the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment. Such loans shall be made only for projects approved by the board.

(b) The state treasurer may adopt rules and regulations to administer and implement the remediation linked deposit loan program.

(c) On or before February 1 of each year, the state treasurer shall submit to the governor, the senate standing committee on energy and natural resources and the house of representatives standing committee on environment an annual report on the activities of the remediation linked deposit loan program.

**History:** L. 2000, ch. 82, § 3; July 1.

## **2-3704**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDATION**

**2-3704. Loans; application; limitations; use; approval or rejection.** (a) The state treasurer is hereby authorized to disseminate information and provide remediation linked deposit loan packages to lending institutions eligible for participation in the remediation linked deposit loan program.

(b) The remediation linked deposit loan package shall be completed by the eligible person applying for the loan before the package is forwarded to the lending institution for consideration.

(c) (1) An eligible lending institution that agrees to receive a remediation linked deposit shall accept and review applications for remediation linked deposit loans from eligible persons. The lending institution shall apply all usual lending standards to determine the credit worthiness of eligible persons applying for remediation linked deposit loans. The total amount of linked deposit loans for any one site shall not exceed \$300,000. The total amount of linked deposits pursuant to K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed \$5,000,000 at any one time.

(2) Only one remediation linked deposit loan shall be made and be outstanding at any one time to any eligible person.

(3) No remediation linked deposit loan shall be amortized for a period of more than 10 years.

(d) An eligible person applying for a remediation linked deposit loan shall certify on the loan application that the loan will be used exclusively for the purpose of paying costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment.

(e) The eligible lending institution may approve or reject a remediation linked deposit loan package based on the lending institution's evaluation of the applicant included in the package, the amount of the individual loan in the package and other appropriate considerations.

(f) The eligible lending institution shall forward to the state treasurer an approved remediation linked deposit loan package, in the form and manner prescribed and approved by the state treasurer. The package shall include information regarding the amount of the loan requested by the applicant and such other information as the state treasurer requires, including a certification by the applicant that the applicant is an eligible person.

**History:** L. 2000, ch. 82, § 4; July 1.

## **2-3705**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTAL REMEDIATION**

**2-3705. Procedures for making deposits; deposit agreement, terms.** (a) If sufficient moneys are not available for a remediation linked deposit, applications may be considered in the order received when moneys are once again available, subject to a review by the lending institution.

(b) Upon acceptance, the state treasurer shall certify to the director of investments the amount required for a remediation linked deposit loan package and the director of investments shall place a remediation linked deposit in the amount certified by the state treasurer with the eligible lending institution at an interest rate which is 2% below the market rate, as determined under K.S.A. 75-4237, and amendments thereto, and which shall be recalculated on the first business day of each calendar year using the market rate then in effect. When necessary, the state treasurer may request the director of investments to place such remediation linked deposit prior to acceptance of a remediation linked deposit loan package.

(c) The eligible lending institution shall enter into a remediation linked deposit agreement with the state treasurer. Such agreement shall include requirements necessary to implement the purposes of the remediation linked deposit loan program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the remediation linked deposit to eligible persons at an interest rate that is not more than 2% above the market rate, as determined under K.S.A. 75-4237, and amendments thereto, and which shall be recalculated on the first business day of each calendar year using the market rate then in effect. The agreement shall include provisions for the remediation linked deposit to be placed for a maturity considered appropriate in coordination with the underlying remediation linked deposit loan. The agreement shall include provisions for the reduction of the remediation linked deposit in an amount equal to any payment of loan principal by the eligible person.

**History:** L. 2000, ch. 82, § 5; July 1.

## **2-3706**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDIATION**

**2-3706. Procedures for making loans; interest rate.** Upon the placement of a remediation linked deposit with an eligible lending institution, the institution shall make the loan to each approved eligible person listed in the remediation linked deposit loan package in accordance with the remediation linked deposit agreement between the institution and the state treasurer. The loan shall be at a rate as provided in K.S.A. 2-3705, and amendments thereto. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution.

**History:** L. 2000, ch. 82, § 6; July 1.

## **2-3707**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDIATION**

**2-3707. Effect of late payment or default.** Neither the state nor the state treasurer shall be liable to any eligible lending institution in any manner for payment of the principal or interest on a remediation linked deposit loan pursuant to K.S.A. 2-3701 through 2-3714, and amendments thereto. Any delay in payments or default on the part of an eligible person does not in any manner affect the remediation linked deposit agreement between the eligible lending institution and the state treasurer.

**History:** L. 2000, ch. 82, § 7; July 1.

## **2-3708**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDIATION**

**2-3708. Purpose; amount of reimbursement, limits.** (a) There is hereby established the remediation reimbursement program. The program shall be for the purpose of providing reimbursement to eligible persons for the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment.

(b) The amount of reimbursement that an eligible person may receive from the fund shall be limited as follows:

(1) Except as provided in paragraph (2), for an eligible person who has paid any assessment imposed pursuant to K.S.A. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total eligible corrective action costs greater than \$100,000 and less than or equal to \$200,000. The total amount reimbursed for any one site shall not exceed \$200,000 within a 5 year period or as otherwise set forth by the board pursuant to rules and regulations.

(2) For an eligible person who is not required to pay or has not paid any assessment imposed pursuant to K.S.A. 2-3713, and amendments thereto, or for a pesticide dealer who has paid the annual \$5 assessment pursuant to subsection (a)(4) of K.S.A. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to 100% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$10,000.

**History:** L. 2000, ch. 82, § 8; L. 2001, ch. 47, § 2; July 1.

## **2-3709**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDATION**

**2-3709. Kansas agricultural remediation board; creation.** (a) There is hereby created the Kansas agricultural remediation board. The board shall consist of five members appointed by the governor. Of the five members, one shall be a representative of agricultural retailers, one shall be a representative of agricultural producers, one shall be a representative of agricultural processors, one shall be a representative of specialty chemical distributors or retailers and one shall be a representative of agricultural and specialty chemical registrants. Not more than three voting members shall be members of the same political party. One representative of the Kansas department of agriculture and one representative of the Kansas department of health and environment shall serve as members of the board *ex officio*.

(b) Members appointed by the governor shall be subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation shall exercise any power, duty or function as a member of the board until confirmed by the senate. The term of office of each member of the board shall be four years, except the initial appointments to the board shall be as follows: Two members shall be appointed for terms of two years, two members shall be appointed for terms of three years and one member shall be appointed for a term of four years. The governor shall designate the term of office for each member appointed to the first board. Each member shall serve until a successor is appointed and confirmed. Whenever a vacancy occurs in the membership of the board prior to the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term.

(c) The governor shall designate the chairperson and vice-chairperson of the board from the members of such board.

(d) Meetings shall be held as determined by the board.

(e) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

**History:** L. 2000, ch. 82, § 9; July 1.

## **2-3710**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDATION**

**2-3710. Same; powers and duties.** The board shall have the following powers, duties and functions:

(a) Administer the fund and the remediation reimbursement program.

(b) Subject to K.S.A. 2-3701 through 2-3714, and amendments thereto, adopt rules and regulations concerning the terms and conditions of any reimbursements from the fund.

(c) Adopt rules and regulations establishing, for purposes of the remediation linked deposit loan program and the remediation reimbursement program, criteria for classification and prioritization of properties where contamination was caused by a release of agricultural or specialty chemicals, or both. Classification and prioritization may account for the criteria contained in Kansas department of health and environment's voluntary clean up and property redevelopment program and state cooperator program.

(d) Establish operating standards and procedures which shall include, but not be limited to, the following:

(1) With respect to the remediation linked deposit loan program, provisions governing board approval of projects for which applications for loans may be made;

(2) with respect to the remediation reimbursement program, provisions governing application procedures, determination of eligible corrective action costs, determination of ineligible corrective costs and reimbursement or payment of eligible corrective action costs; and

(3) with respect to both programs, provisions governing conflicts of interest, appeals procedures, review and priority determinations and enforcement of the provisions of K.S.A. 2-3701 through 2-3714, and amendments thereto.

(e) Appoint or contract for qualified administrative services subject to the limitation that expenditures from the fund for the administrative expenses of the board and the programs established by K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed \$150,000 in any fiscal year.

(f) Annually provide an independent audit of the fund.

(g) On or before February 1 of each year, submit to the governor, the senate standing committee on energy and natural resources and the house standing committee on environment an annual report of the activities and reimbursements for which money from the fund has been expended during the previous fiscal year, including a copy of the independent audit.

**History:** L. 2000, ch. 82, § 10; July 1.

## **2-3711**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDATION**

**2-3711. Kansas agricultural remediation fund; creation.** (a) There is hereby created in the state treasury the Kansas agricultural remediation fund.

(b) All expenditures from the Kansas agricultural remediation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas agricultural remediation fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas agricultural remediation fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

**History:** L. 2000, ch. 82, § 11; July 1.

## **2-3712**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTALREMEDATION**

**2-3712. Assessments; when required.** (a) Whenever on April 1 of any year the unobligated principal balance of the fund equals or exceeds \$5,000,000, the assessments imposed by K.S.A. 2-3713, and amendments thereto, shall not be levied on or after the next July 1. Whenever on April 1 of any year thereafter the unobligated principal balance of the fund equals \$1,500,000 or less, the assessments imposed by

K.S.A. 2-3713, and amendments thereto, shall again be levied on and after the next July 1.

(b) The director of accounts and reports, not later than April 5 of each year, shall notify the board of the amount of the unobligated balance of the fund on April 1 of such year. Upon receipt of the notice, the board shall notify the secretary of agriculture who shall notify fee payers under K.S.A. 2-3713, and amendments thereto, if the levy of assessments under that section will terminate or recommence on the following July 1.

**History:** L. 2000, ch. 82, § 12; July 1.

## **2-3713**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTAL REMEDIATION**

**2-3713. Same; amounts.** (a) Subject to the provisions of K.S.A. 2-3712, and amendments thereto, there is hereby imposed environmental assessments as follows:

(1) An annual assessment of \$100 to be paid by each custom blender required to be licensed pursuant to K.S.A. 2-1201a, and amendments thereto. Such assessment shall be paid to the secretary of agriculture by the custom blender at the time and in the manner provided by law for payment of the custom blender's license fee.

(2) An annual assessment of \$20 for each commercial fertilizer required to be registered pursuant to K.S.A. 2-1202, and amendments thereto. Such assessment shall be paid to the secretary of agriculture by the applicant for registration at the time and in the manner provided by law for payment of the registration fee for the commercial fertilizer.

(3) An annual assessment of \$60 for each agricultural chemical required to be registered pursuant to K.S.A. 2-2204, and amendments thereto, other than an agricultural chemical classified as an antimicrobial pesticide, as defined by 7 U.S.C. §136(mm). Such assessment shall be paid to the secretary of agriculture by the applicant for registration at the time and in the manner provided by law for payment of the registration fee for the agricultural chemical.

(4) An annual assessment to be paid by each pesticide dealer required to be registered pursuant to K.S.A. 2-2469, and amendments thereto. If the annual sales of pesticides from the previous year by a pesticide dealer from a business location are less than \$2,500, the annual assessment shall be \$5. If the annual sales of pesticides from the previous year by a pesticide dealer from a business location are equal to or greater than \$2,500, the annual assessment shall be \$80. Such assessment shall be paid to the secretary of agriculture by the pesticide dealer at the time and in the manner provided by law for payment of the dealer's registration fee.

(5) An annual assessment of \$.0005 per bushel of storage capacity of each public warehouse required to be licensed pursuant to K.S.A. 34-228, and amendments thereto, or pursuant to the federal warehouse act. Such assessment shall be paid to the secretary of agriculture by the applicant for licensure at the time and in the manner provided by law for payment of the warehouse license fee.

(6) An annual assessment of \$.0005 per bushel of storage capacity of each public warehouse in this state that is licensed pursuant to the United States warehouse act. Such assessment shall be paid to the secretary of agriculture by the licensee on or before August 31 of each year.

(b) The secretary of agriculture shall remit to the state treasurer all moneys collected by the secretary from assessments paid pursuant to this section. The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the fund.

(c) The secretary of agriculture shall adopt rules and regulations establishing procedures for payment and collection of all environmental assessments.

(d) The secretary of agriculture shall have the authority to reimburse or refund a person if an error occurred in the payment of an assessment.

**History:** L. 2000, ch. 82, § 13; L. 2001, ch. 47, § 1; July 1.

## **2-3714**

### **Chapter 2.--AGRICULTURE**

#### **Article 37.--ENVIRONMENTAL REMEDIATION**

**2-3714. Abolition of programs.** On July 1, 2010, the remediation linked deposit loan program, the remediation reimbursement program and the fund are hereby abolished.

**History:** L. 2000, ch. 82, § 14; July 1.